

United States District Court
Eastern District of Michigan

United States of America,

Plaintiff,

Crim Case No. 21-30462

v.

Hon. Anthony P. Patti

Raphael Smiley,

Defendant,

**Stipulation and Proposed Order to Continue the
Preliminary Hearing and Find Excludable Delay**

The parties stipulate to continue the preliminary hearing from January 12, 2022 to March 16, 2022. The parties further stipulate, and jointly move for the Court to find, that the time between January 12, 2022 and March 16, 2022 qualifies as excludable delay under the Speedy Trial Act, 18 U.S.C. § 3161(h)(7), because the ends of justice served by the granting of the requested continuance outweigh the best interests of the public and the defendant in a speedy trial. The parties also stipulate that there is good cause for the requested continuance under Federal Rule of Criminal Procedure 5.1(d). The parties' reasons for the continuance and for a finding of excludable delay and good cause are as follows:

- The parties are exploring the possibility of Pretrial Diversion, as contemplated by 18 U.S.C. § 3161(2), and need additional time for the

defendant to meet with the U.S. Pretrial Services Agency; for Pretrial Services to generate a report as to whether the defendant is an appropriate candidate for diversion; for the attorney for the government to review the report; and for the parties to reach a final agreement as the terms of any such diversion.

The parties therefore request that the Court find that the ends of justice served by the granting of this continuance outweigh the best interests of the public and the defendant in a speedy trial.

Respectfully submitted,

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**Order Continuing the
Preliminary Hearing and Finding Excludable Delay**

The Court has considered the parties' stipulation and joint motion to continue the preliminary hearing and for a finding that the time from January 12, 2022 to March 16, 2022, qualifies as excludable delay under the Speedy Trial Act, 18 U.S.C. § 3161(h)(7). For the reasons described in the parties' submission, and after considering the factors listed in § 3161(h)(7)(B), the Court finds that the ends of justice served by granting the parties' requested continuance outweigh the best interests of the public and the defendant in a speedy trial and that the time from January 12, 2022 to March 16, 2022, qualifies as excludable delay under § 3161(h)(7). Specifically, the Court finds that:

- The parties are exploring the possibility of Pretrial Diversion, as contemplated by 18 U.S.C. § 3161(2), and need additional time for the

defendant to meet with the U.S. Pretrial Services Agency; for Pretrial Services to generate a report as to whether the defendant is an appropriate candidate for diversion; for the attorney for the government to review the report; and for the parties to reach a final agreement as the terms of any such diversion.

For the same reasons, the Court also finds that there is good cause for the requested continuance under Federal Rule of Criminal Procedure 5.1(d).

IT IS THEREFORE ORDERED that the preliminary hearing will be continued from January 12, 2022 to March 16, 2022, and that the time from January 12, 2022 to March 16, 2022 shall constitute excludable delay under the Speedy Trial Act, 18 U.S.C. § 3161(h)(7), because the Court finds that the ends of justice served by the granting of the continuance outweigh the best interests of the public and the defendant in a speedy trial.

Dated: January 11, 2022

s/Anthony P. Patti
Anthony P. Patti
United States Magistrate Judge